

(3) *the state agency that operates, licenses, certifies, or registers the facility in which the alleged conduct occurred, if the alleged conduct occurred in a facility operated, licensed, certified, or registered by a state agency; or*

(4) *an appropriate agency designated by the court.*

Sec. 33.010. **CONFIDENTIALITY.** *Notwithstanding any other law, information obtained by the Department of Protective and Regulatory Services or another entity under Section 33.008 or 33.009 is confidential except to the extent necessary to prove a violation of Section 22.011, 22.021, or 25.02, Penal Code.*

Sec. 33.011. **INFORMATION RELATING TO JUDICIAL BYPASS.** *The Texas Department of Health shall produce and distribute informational materials that explain the rights of a minor under this chapter. The materials must explain the procedures established by Sections 33.003 and 33.004 and must be made available in English and in Spanish. The material provided by the department shall also provide information relating to alternatives to abortion and health risks associated with abortion.*

SECTION 2. The Supreme Court of Texas shall issue promptly such rules as may be necessary in order that the process established by Sections 33.003 and 33.004, Family Code, as added by this Act, may be conducted in a manner that will ensure confidentiality and sufficient precedence over all other pending matters to ensure promptness of disposition.

SECTION 3. This Act takes effect September 1, 1999.

SECTION 4. Chapter 33, Family Code, as added by this Act, applies only to an abortion performed on or after January 1, 2000. An abortion performed before January 1, 2000, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. The Texas Board of Health shall adopt the form to be used under Subdivision (4), Subsection (a), Section 33.002, Family Code, as added by this Act, not later than December 15, 1999.

SECTION 6. The clerk of the Supreme Court of Texas shall adopt the application form and notice of appeal form to be used under Sections 33.003 and 33.004, Family Code, as added by this Act, not later than December 15, 1999.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 18, 1999: Yeas 23, Nays 8; the Senate concurred in House amendments on May 25, 1999: Yeas 22, Nays 8; passed the House, with amendments, on May 22, 1999, by a non-record vote.

Approved June 7, 1999.

Effective September 1, 1999.

## CHAPTER 396

### S.B. No. 4

#### AN ACT

relating to public school finance, property tax relief, and public education; making an appropriation.

*Be it enacted by the Legislature of the State of Texas:*

#### ARTICLE 1. SCHOOL FINANCE AND PROPERTY TAX RELIEF

SECTION 1.01. Subdivision (3), Section 41.001, Education Code, is amended to read as follows:

(3) "Weighted average daily attendance" has the meaning assigned by Section 42.302[, ~~except that:~~

~~[(A) weighted average daily attendance is computed using the estimate of average daily attendance under Section 42.254; and~~

~~[(B) the estimate under Section 42.254 is modified by including a student residing in a school district but attending school in another district in the estimate for the district of the student's residence and not of the district in which the student attends school].~~

SECTION 1.02. Section 41.002, Education Code, is amended by amending Subsections (a), (b), (e), and (f) and adding Subsection (g) to read as follows:

(a) A school district may not have a wealth per student that exceeds \$295,000 [~~\$280,000~~].

(b) ~~For [Except as provided by Subsection (e), for]~~ purposes of this chapter, the commissioner shall adjust, *in accordance with Section 42.2521 [by the amount of the decline]*, the taxable values of a school district that, *due to factors beyond the control of the board of trustees*, experiences a rapid decline ~~[from the preceding year]~~ in the tax base used in calculating taxable values ~~[that is beyond the control of the board of trustees of the district]~~.

(e) Notwithstanding Subsection (a), *and except as provided by Subsection (g) [for the 1997-1998, 1998-1999, and 1999-2000 school years]*, in accordance with a determination of the commissioner, the wealth per student that a school district may have after exercising an option under Section 41.003(2) or (3) may not be less than the amount needed to maintain state and local revenue in an amount equal to state and local revenue per weighted student for maintenance and operation of the district for the 1992-1993 school year less the district's current year distribution per weighted student from the available school fund, other than amounts distributed under Chapter 31, if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or \$1.50 on the \$100 valuation of taxable property. ~~[This subsection expires September 1, 2000.]~~

(f) For purposes of Subsection (e), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year less any amounts paid into a tax increment fund under Chapter 311, Tax Code, by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100. ~~[This subsection expires September 1, 2000.]~~

(g) *The wealth per student that a district may have under Subsection (e) is adjusted as follows:*

$$AWPS = WPS \times (((EWL/280,000 - 1) \times DTR/1.5) + 1)$$

*where:*

*"AWPS" is the district's wealth per student;*

*"WPS" is the district's wealth per student determined under Subsection (e);*

*"EWL" is the equalized wealth level; and*

*"DTR" is the district's adopted maintenance and operations tax rate for the current school year.*

SECTION 1.03. Section 41.003, Education Code, is amended to read as follows:

Sec. 41.003. **OPTIONS TO ACHIEVE EQUALIZED WEALTH LEVEL.** A district with a wealth per student that exceeds the equalized wealth level may take any combination of the following actions to achieve the equalized wealth level:

- (1) consolidation with another district as provided by Subchapter B;
  - (2) detachment of territory as provided by Subchapter C;
  - (3) purchase of average daily attendance credit as provided by Subchapter D;
  - (4) ~~[contracting for the]~~ education of nonresident students as provided by Subchapter E;
- or

- (5) tax base consolidation with another district as provided by Subchapter F.

SECTION 1.04. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0031 to read as follows:

*Sec. 41.0031. INCLUSION OF ATTENDANCE CREDITS AND NONRESIDENTS IN WEIGHTED AVERAGE DAILY ATTENDANCE. In determining whether a school district has a wealth per student less than or equal to the equalized wealth level, the commissioner shall use:*

- (1) the district's final weighted average daily attendance; and*
- (2) the number of attendance credits a district purchases under Subchapter D or the number of nonresident students a district educates under Subchapter E for a school year.*

SECTION 1.05. Subsection (a), Section 41.004, Education Code, is amended to read as follows:

(a) Not later than July 15 of each year, using the estimate of enrollment under Section 42.254, the commissioner shall review the wealth per student of school districts in the state and shall notify:

- (1) each district with wealth per student exceeding the equalized wealth level;
- (2) each district to which the commissioner proposes to annex property detached from a district notified under Subdivision (1), if necessary, under Subchapter G; and
- (3) each district to which the commissioner proposes to consolidate a district notified under Subdivision (1), if necessary, under Subchapter H.

SECTION 1.06. Section 41.093, Education Code, is amended by adding Subsection (c) to read as follows:

*(c) The cost of an attendance credit for a school district is computed using the final tax collections of the district.*

SECTION 1.07. Subchapter E, Chapter 41, Education Code, is amended by adding Section 41.124 to read as follows:

*Sec. 41.124. TRANSFERS. (a) The board of trustees of a school district with a wealth per student that exceeds the equalized wealth level may reduce the district's wealth per student by serving nonresident students who transfer to the district and are educated by the district but who are not charged tuition. A district that exercises the option under this subsection is not required to execute an agreement with the school district in which a transferring student resides and must certify to the commissioner that the district has not charged or received tuition for the transferring students.*

*(b) A school district with a wealth per student that exceeds the equalized wealth level that pays tuition to another school district for the education of students that reside in the district may apply the amount of tuition paid toward the cost of the option chosen by the district to reduce its wealth per student. The amount applied under this subsection may not exceed the amount determined under Section 41.093 as the cost of an attendance credit for the district. The commissioner may require any reports necessary to document the tuition payments.*

*(c) A school district that receives tuition for a student from a school district with a wealth per student that exceeds the equalized wealth level may not claim attendance for that student for purposes of Chapters 42 and 46 and the technology allotment under Section 31.021(b)(2).*

SECTION 1.08. The heading to Subchapter E, Chapter 41, Education Code, is amended to read as follows:

#### SUBCHAPTER E. ~~[CONTRACT FOR]~~ EDUCATION OF NONRESIDENT STUDENTS

SECTION 1.09. Subsection (b), Section 42.002, Education Code, is amended to read as follows:

(b) The Foundation School Program consists of:

(1) two tiers that in combination provide for:

(A) sufficient financing for all school districts to provide a basic program of education that is rated academically acceptable or higher under Section 39.072 and meets other applicable legal standards; and

(B) substantially equal access to funds to provide an enriched program ~~[and additional funds for facilities]; and~~

(2) a facilities component as provided by Chapter 46.

SECTION 1.10. Subsection (d), Section 42.007, Education Code, is amended to read as follows:

(d) The board shall conduct a study on the funding elements each biennium, as appropriate. *The study must include a determination of the projected cost to the state in the next state fiscal biennium of ensuring the ability of each school district to maintain existing programs without increasing property tax rates.*

SECTION 1.11. Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. **BASIC ALLOTMENT.** For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment of \$2,537 [~~\$2,987~~]. A greater amount for any school year may be provided by appropriation.

SECTION 1.12. Subchapter B, Chapter 42, Education Code, is amended by adding Section 42.106 to read as follows:

Sec. 42.106. **ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT OFFERING ALL GRADE LEVELS.** *For purposes of this chapter, the taxable value of property of a school district that contracts for students residing in the district to be educated in another district under Section 25.039(a) is adjusted by applying the formula:*

$$ADPV = DPV - (TN/.015)$$

where:

"ADPV" is the district's adjusted taxable value of property;

"DPV" is the taxable value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code; and

"TN" is the total amount of tuition required to be paid by the district under Section 25.039 for the school year for which the adjustment is made.

SECTION 1.13. Section 42.152, Education Code, is amended by adding Subsections (s) and (t) to read as follows:

(s) A reduction made under this section or the General Appropriations Act in the allotment under this section does not affect the computation of students in weighted average daily attendance for purposes of Subchapter F.

(t) For each year of a state fiscal biennium, the commissioner shall reduce the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302 by an amount sufficient to reduce state costs in an amount equal to the increase in state costs due to the application of Subsection (s). The commissioner shall determine the same reduction for each year and shall announce the determination as soon as practicable after August 1 preceding the beginning of the biennium. A determination by the commissioner under this section is final and may not be appealed.

SECTION 1.14. Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.158 to read as follows:

Sec. 42.158. **NEW INSTRUCTIONAL FACILITY ALLOTMENT.** (a) A school district is entitled to an additional allotment as provided by this section for operational expenses associated with opening a new instructional facility.

(b) For the first school year in which students attend a new instructional facility, a school district is entitled to an allotment of \$250 for each student in average daily attendance at the facility. For the second school year in which students attend that instructional facility, a school district is entitled to an allotment of \$250 for each additional student in average daily attendance at the facility.

(c) For purposes of this section, the number of additional students in average daily attendance at a facility is the difference between the number of students in average daily attendance in the current year at that facility and the number of students in average daily attendance at that facility in the preceding year.

(d) The amount appropriated for allotments under this section may not exceed \$25 million in a school year. If the total amount of allotments to which districts are entitled under this section for a school year exceeds the amount appropriated for allotments under this section, the commissioner shall reduce each district's allotment under this section in the manner provided by Section 42.253(h).

(e) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level is entitled to a credit, in the amount of the allotments to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits. A school district that is otherwise ineligible for state aid under this chapter is entitled to receive allotments under this section.

(f) The commissioner may adopt rules necessary to implement this section.

(g) In this section, "instructional facility" has the meaning assigned by Section 46.001.

SECTION 1.15. Subsection (a), Section 42.251, Education Code, is amended to read as follows:

(a) The sum of the basic allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and[,] the guaranteed yield allotments under Subchapter F, [and assistance provided under the school facilities assistance program under Subchapter H,] computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

SECTION 1.16. Section 42.2511, Education Code, is amended to read as follows:

Sec. 42.2511. ~~[COMPUTATION OF STATE AID FOR 1997-1998 SCHOOL YEAR,]~~ ADDITIONAL STATE AID FOR HOMESTEAD EXEMPTION. (a) Notwithstanding any other provision of this chapter, [in computing state aid for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(e), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.

~~[(b) For the 1997-1998 and 1998-1999 school years,] a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided under Subchapter M, Chapter 403, Government Code, [by Subsection (a)] does not fully compensate the district for ad valorem tax revenue [that would have been] lost due to the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, and the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997 [if the increased exemption and additional limitation had been in effect for the 1996 tax year].~~

(b) The commissioner, using information provided by the comptroller, shall compute the amount of additional state aid to which a district is entitled under this section [subsection]. A determination by the commissioner under this section [subsection] is final and may not be appealed.

~~[(c) This section expires September 1, 1999.]~~

SECTION 1.17. Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2512 and 42.2513 to read as follows:

Sec. 42.2512. ADDITIONAL STATE AID FOR PROFESSIONAL STAFF SALARIES.

(a) A school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) an amount equal to the product of \$3,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; and

(2) an amount equal to 80 percent of the amount of additional funds to which the district is entitled due to the increases made by S.B. No. 4, Acts of the 76th Legislature, Regular Session, 1999, to:

(A) the equalized wealth level under Section 41.002;

(B) the basic allotment under Section 42.101; and

(C) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302.

(b) A determination by the commissioner under this section is final and may not be appealed.

(c) The commissioner may adopt rules to implement this section.

**Sec. 42.2513. SALARY TRANSITION AID.** (a) For the 1999-2000 and 2000-2001 school years, the commissioner shall increase the entitlement under this chapter of a school district that experiences additional salary cost resulting from Chapter 592 (H.B. No. 4), Acts of the 75th Legislature, Regular Session, 1997, that is not fully funded by an amount equal to 20 percent of the amount of additional funds to which the district is entitled due to the increases made by S.B. No. 4, Acts of the 76th Legislature, Regular Session, 1999, to:

(1) the equalized wealth level under Section 41.002;

(2) the basic allotment under Section 42.101; and

(3) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302.

(b) The amount of additional salary cost shall be computed by determining what the district's salary cost for the 1996-1997 school year would have been if, for purposes of the minimum salary schedule under Section 21.402, as that section existed on September 1, 1996, the amount appropriated for purposes of the Foundation School Program for the 1997-1998 state fiscal year were increased by \$520 million and comparing that cost to the amount the district was actually required to pay under Section 21.402. For this purpose, the commissioner shall use 1996-1997 employment and salary data as reported through the Public Education Information Management System (PEIMS).

(c) The commissioner shall determine the amount of additional state aid under this section to which each school district is entitled. A decision of the commissioner under this section is final and may not be appealed.

(d) This section expires September 1, 2001.

**SECTION 1.18.** Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2521 and 42.2522 to read as follows:

**Sec. 42.2521. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE OF PROPERTY.** (a) For purposes of Chapters 41 and 48 and this chapter, and to the extent money specifically authorized to be used under this section is available, the commissioner shall adjust the taxable value of property in a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year.

(b) To the extent that a sufficient amount of money is not available to fund all adjustments under this section, the commissioner shall reduce adjustments in the manner provided by Section 42.253(h) so that the total amount of adjustments equals the amount of money available to fund the adjustments.

(c) A decision of the commissioner under this section is final and may not be appealed.

**Sec. 42.2522. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.** (a) In any school year, the commissioner may not provide funding under this chapter based on a school district's taxable value of property computed in accordance with Section 403.302(d)(2), Government Code, unless:

(1) funds are specifically appropriated for purposes of this section; or

(2) the commissioner determines that the total amount of state funds appropriated for purposes of the Foundation School Program for the school year exceeds the amount of

state funds distributed to school districts in accordance with Section 42.253 based on the taxable values of property in school districts computed in accordance with Section 403.302(d), Government Code, without any deduction for residence homestead exemptions granted under Section 11.13(n), Tax Code.

(b) In making a determination under Subsection (a)(2), the commissioner shall:

(1) notwithstanding Section 42.253(b), reduce the entitlement under this chapter of a school district whose final taxable value of property is higher than the estimate under Section 42.254 and make payments to school districts accordingly; and

(2) give priority to school districts that, due to factors beyond the control of the board of trustees, experience a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year.

(c) In the first year of a state fiscal biennium, before providing funding as provided by Subsection (a)(2), the commissioner shall ensure that sufficient appropriated funds for purposes of the Foundation School Program are available for the second year of the biennium, including funds to be used for purposes of Section 42.2521.

(d) If the commissioner determines that the amount of funds available under Subsection (a)(1) or (2) does not at least equal the total amount of state funding to which districts would be entitled if state funding under this chapter were based on the taxable values of property in school districts computed in accordance with Section 403.302(d)(2), Government Code, the commissioner may, to the extent necessary, provide state funding based on a uniform lesser fraction of the deduction under Section 403.302(d)(2), Government Code.

(e) The commissioner shall notify school districts as soon as practicable as to the availability of funds under this section. For purposes of computing a rollback tax rate under Section 26.08, Tax Code, a district shall adjust the district's tax rate limit in the manner provided by comptroller rule to reflect assistance received under this section.

SECTION 1.19. Section 42.253, Education Code, is amended by adding Subsections (e-1) and (e-2) to read as follows:

(e-1) For the 1999-2000 and 2000-2001 school years, the commissioner shall recompute the limit authorized under Subsection (e) for each school district to be a rate that would entitle the district to an amount of state and local funds per weighted student in the current year, using a guaranteed level of state and local funds per cent of tax effort under Section 42.302 of \$23.10, equal to the amount of state and local funds to which the district would have been entitled under this chapter for the current school year if there had been no change in law. For purposes of this subsection, the commissioner shall base the determination of a district's entitlement under prior law on the district's maximum tax rate for the 1999-2000 school year under Subsection (e) and the funding elements for this chapter as it existed on May 31, 1999.

(e-2) The commissioner may adopt rules necessary to administer Subsection (e-1). A determination of the commissioner under Subsection (e-1) is final and may not be appealed. Subsection (e-1) and this subsection expire September 1, 2001.

SECTION 1.20. Sections 42.301, 42.302, and 42.303, Education Code, are amended to read as follows:

Sec. 42.301. PURPOSE. The purpose of the guaranteed yield component of the Foundation School Program is to provide each school district with the opportunity to provide the basic program and to supplement that program at a level of its own choice ~~[and with access to additional funds for facilities]~~. An allotment under this subchapter may be used for any legal purpose other than ~~including~~ capital outlay or ~~and~~ debt service.

Sec. 42.302. ALLOTMENT. (a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is ~~\$24.99~~ [\$21] or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, *any allotment under Section 42.158*, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment ~~[and facilities]~~ tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of *maintenance and operations* taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, *or, if applicable, under Section 42.2521*, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, *or, if applicable, under Section 42.2521*, divided by 100.

(b) In computing the district enrichment ~~[and facilities]~~ tax rate of a school district, the total amount of *maintenance and operations* taxes collected by the school district does not include the amount of:

- (1) the district's local fund assignment under Section 42.252; *or*
- (2) ~~(taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Chapter 46; or~~
- (3) taxes paid into a tax increment fund under Chapter 311, Tax Code.

Sec. 42.303. LIMITATION ON ENRICHMENT ~~[AND FACILITIES]~~ TAX RATE. The district enrichment ~~[and facilities]~~ tax rate ("DTR") under Section 42.302 may not exceed \$0.64 per \$100 of valuation, or a greater amount for any year provided by appropriation.

SECTION 1.21. The heading to Chapter 46, Education Code, is amended to read as follows:

#### CHAPTER 46. ASSISTANCE WITH INSTRUCTIONAL FACILITIES AND PAYMENT OF EXISTING DEBT ~~[ALLOTMENT]~~

SECTION 1.22. Sections 46.001 through 46.011, Education Code, are designated as Subchapter A, Chapter 46, Education Code, and a new subchapter heading is added to read as follows:

##### SUBCHAPTER A. INSTRUCTIONAL FACILITIES ALLOTMENT

SECTION 1.23. Sections 46.001 and 46.002, Education Code, are amended to read as follows:

Sec. 46.001. DEFINITION. In this *subchapter* ~~[chapter]~~, "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

Sec. 46.002. RULES. (a) The commissioner may adopt rules for the administration of this *subchapter* ~~[chapter]~~.

(b) The commissioner's rules may limit the amount of an allotment under this *subchapter* ~~[chapter]~~ that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

SECTION 1.24. Subsections (a) and (g), Section 46.003, Education Code, are amended to read as follows:



(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 [\$28] or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521.

(g) To receive state assistance under this subchapter [chapter], a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

SECTION 1.25. Section 46.004, Education Code, is amended to read as follows:

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this subchapter [chapter]:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter [chapter] are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter [chapter].

(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this subchapter [chapter].

SECTION 1.26. Section 46.006, Education Code, is amended to read as follows:

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this subchapter [chapter].

(b) A district's wealth per student is reduced for purposes of this section if a district has had substantial student enrollment growth in the preceding five-year period. The reduction is in addition to any reduction under Subsection (a) and is computed before the district's wealth per student is reduced under that subsection, if applicable. A district's wealth per student is reduced:

- (1) by five percent, if the district has an enrollment growth rate in that period that is 10 percent or more but less than 15 percent;
- (2) by 10 percent, if the district has an enrollment growth rate in that period that is 15 percent or more but less than 30 percent; or
- (3) by 15 percent, if the district has an enrollment growth rate in that period that is 30 percent or more.

(c) A district's wealth per student is reduced by 10 percent for purposes of this section if the district does not have any outstanding debt at the time the district applies for assistance under this subchapter. The reduction is in addition to any reduction under Subsection (a) or (b) and is computed before the district's wealth per student is reduced under those subsections, if applicable.

(d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), and (c) ~~[this subsection]~~.

(e) ~~[(b)]~~ Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under this ~~subchapter~~ ~~[chapter]~~, except that the commissioner may award less than the full amount to the last district for which any funds are available.

(f) ~~[(e)]~~ Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(g) ~~[(d)]~~ In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, *or, if applicable, Section 42.2521*, divided by the district's average daily attendance as determined under Section 42.005.

SECTION 1.27. Sections 46.007 and 46.009, Education Code, are amended to read as follows:

Sec. 46.007. REFUNDING BONDS. A school district may use state funds received under this ~~subchapter~~ ~~[chapter]~~ to pay the principal of and interest on refunding bonds that:

- (1) are issued to refund bonds eligible under Section 46.003;
- (2) do not have a final maturity date later than the final maturity date of the bonds being refunded;
- (3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and
- (4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

Sec. 46.009. PAYMENT OF SCHOOL FACILITIES ALLOTMENTS. (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this ~~subchapter~~ ~~[chapter]~~.

(b) If the amount appropriated for purposes of this ~~subchapter~~ ~~[chapter]~~ for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

- (1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and
- (2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253(h) ~~[42.253]~~.

(c) Warrants for payments under this *subchapter* [~~chapter~~] shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this *subchapter* [~~chapter~~] to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section 42.258 applies to payments under this *subchapter* [~~chapter~~].

(f) If a school district would have received a greater amount under this *subchapter* [~~chapter~~] for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this *subchapter* [~~chapter~~] to subsequent distributions to the district under this *subchapter* [~~chapter~~].

SECTION 1.28. Subsection (a), Section 46.011, Education Code, is amended to read as follows:

(a) If an instructional facility financed by bonds paid with state and local funds under this *subchapter* [~~chapter~~] is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

SECTION 1.29. Chapter 46, Education Code, is amended by adding Subchapters B and C to read as follows:

#### **SUBCHAPTER B. ASSISTANCE WITH PAYMENT OF EXISTING DEBT**

*Sec. 46.031. RULES. The commissioner may adopt rules for the administration of this subchapter.*

*Sec. 46.032. ALLOTMENT. (a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:*

$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

*where:*

*"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;*

*"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;*

*"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;*

*"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and*

*"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.*

*(b) The existing debt tax rate of the district under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.*

*Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if:*

(1) taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for the 1998-1999 school year; and

(2) the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

Sec. 46.034. **LIMITS ON ASSISTANCE.** (a) The existing debt tax rate ("EDTR") under Section 46.032 may not exceed \$0.12 per \$100 of valuation, or a greater amount for any year provided by appropriation.

(b) The amount of state assistance to which a district is entitled under this subchapter may not exceed the amount to which the district would be entitled at the district's tax rate for the payment of eligible bonds for the final year of the preceding state fiscal biennium.

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the district's audited debt service collections for the 1998-1999 school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

(d) To the extent funds are available under Chapter 42 or this chapter in excess of the amount to which school districts are entitled for a school year, the commissioner, before providing additional assistance under Section 42.2522, may provide assistance under this subchapter to a district that would be entitled to the assistance but for the limit on the existing debt tax rate under Subsection (a).

Sec. 46.035. **PAYMENT OF ASSISTANCE.** Section 46.009 applies to the payment of assistance under this subchapter.

#### SUBCHAPTER C. REFINANCING

Sec. 46.061. (a) The commissioner by rule may provide for the payment of state assistance under this chapter to refinance school district debt. A refinancing may not increase the cost to the state of providing the assistance.

(b) The commissioner may allocate state assistance provided for a refinancing to Subchapter A, Subchapter B, or both, as appropriate.

SECTION 1.30. Sections 21.401 and 21.402, Education Code, are amended to read as follows:

Sec. 21.401. **MINIMUM SERVICE REQUIRED.** (a) A contract between a school district and an educator must be for a minimum of 10 months' service.

(a-4) For the 1998-1999 school year, an educator employed under a 10-month contract must provide a minimum of 187 days of service. This subsection expires September 1, 1999.

(b) An educator employed under a 10-month contract must provide a minimum [number] of 187 days of service [as determined by the following formula:

$$[MDS = 185 + (0.33 \times (R1 - R2)/(R\%_{as}))]$$

[where:

["MDS" is the minimum number of days of service;

["R1" is equal to FSP/ADA as determined under Section 21.402 for the fiscal year; and

["R2" is equal to FSP/ADA as determined under Section 21.402 for the 1996-1997 school year].

[(b-1) Subsection (b) applies beginning with the 1999-2000 school year. This subsection expires January 1, 2000.]

(c) [The result of the formula prescribed by Subsection (b) shall be rounded to the nearest whole number.

(d) The commissioner, as provided by Section 25.081(b), may reduce the number of days of service required by this section. A reduction by the commissioner does not reduce an educator's salary.

Sec. 21.402. MINIMUM SALARY SCHEDULE FOR CERTAIN PROFESSIONAL STAFF ~~[CLASSROOM TEACHERS AND FULL-TIME LIBRARIANS]~~. (a) Except as provided by Subsection (d), ~~[or] (e), or (f)~~, a school district must pay each classroom teacher, ~~[or] full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse~~ not less than the minimum monthly salary, based on the employee's level of experience, determined by the following formula:

$$MS = SF \times FS \text{ ~~[(FSP/ADA)]~~}$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student available to a district eligible to receive state assistance under Section 42.302 with an enrichment tax rate, as defined by Section 42.302, equal to the maximum rate authorized under Section 42.303 ~~["FSP" is the amount appropriated in the General Appropriations Act for the fiscal year for the Foundation School Program, as determined by the commissioner as provided by Subsection (b); and~~

~~["ADA" is the total estimated average daily attendance, as defined by Section 42.005, used for purposes of the General Appropriations Act for the fiscal year].~~

(b) Not later than June 1 of each year, the commissioner shall determine the amount of state and local funds per weighted student available, for purposes of Subsection (a), to a district described by that subsection for the following school year ~~[appropriated for purposes of Chapter 42 for the state fiscal year beginning September 1. The commissioner shall exclude from the determination:~~

~~[(1) amounts designated solely for use in connection with school facilities or for payment of principal of and interest on bonds; and~~

~~[(2) local funds received under Subchapter D, Chapter 41].~~

(c) The salary factors per step are as follows:

Years Experience	0	1	2	3	4
Salary Factor	.5596 [.8470]	.5728 [.8699]	.5861 [.8928]	.5993 [.9156]	.6272 [.9639]
Years Experience	5	6	7	8	9
Salary Factor	.6552 [1.0122]	.6831 [1.0605]	.7091 [1.1054]	.7336 [1.1477]	.7569 [1.1879]
Years Experience	10	11	12	13	14
Salary Factor	.7787 [1.2256]	.7996 [1.2616]	.8192 [1.2955]	.8376 [1.3273]	.8552 [1.3578]
Years Experience	15	16	17	18	19
Salary Factor	.8717 [1.3862]	.8874 [1.4133]	.9021 [1.4387]	.9160 [1.4628]	.9293 [1.4387]
Years Experience 20 and over					
Salary Factor	.9418 [1.5073]				

(c-1) Notwithstanding Subsection (a), for the 1999-2000 and 2000-2001 school years, a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse is entitled to a monthly salary that is at least equal to the greater of:

(1) *the sum of:*

(A) *the monthly salary the employee would have received for the 1999-2000 or 2000-2001 school year, as applicable under the district's salary schedule for the 1998-1999 school year, if that schedule had been in effect for the 1999-2000 or 2000-2001 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 1999-2000 or 2000-2001 school year; and*

(B) *\$300; or*

(2) *the salary to which the employee is entitled under Subsection (a).*

(c-2) *Subsection (c-1) and this subsection expire September 1, 2001.*

(d) *A classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse employed by a school district in the 2000-2001 school year is, as long as the employee is employed by the same district, entitled to a salary that is at least equal to the salary the employee received for the 2000-2001 school year.*

(e) *If the minimum monthly salary determined under Subsection (a) for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year, the minimum monthly salary is the minimum monthly salary for the preceding year.*

(f) [(e)] *Notwithstanding Subsection (a), a teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994-1995 school year as long as the teacher or librarian is employed by the same district.*

(g) *The commissioner may adopt rules to govern the application of this section, including rules that:*

(1) *require the payment of a minimum salary under this section to a person employed in more than one capacity for which a minimum salary is provided and whose combined employment in those capacities constitutes full-time employment; and*

(2) *specify the credentials a person must hold to be considered a school nurse under this section.*

(h) [(f)] *In this section, "gross monthly salary" must include the amount a teacher or librarian received that represented a career ladder salary supplement under Section 16.057, as that section existed January 1, 1993.*

SECTION 1.31. Subsections (a) and (c), Section 21.403, Education Code, are amended to read as follows:

(a) A teacher, [or] librarian, *counselor, or nurse* shall advance one step on the minimum salary schedule under Section 21.402 for each year of experience as a teacher, [or] librarian, *counselor, or nurse* until step 20 is reached.

(c) The commissioner shall adopt rules for determining the experience for which a teacher, [or] librarian, *counselor, or nurse* is to be given credit in placing the teacher, [or] librarian, *counselor, or nurse* on the minimum salary schedule. A district shall credit the teacher, [or] librarian, *counselor, or nurse* for each year of experience without regard to whether the years are consecutive.

SECTION 1.32. Subsection (b), Section 25.039, Education Code, is amended to read as follows:

(b) The school district in which the students reside shall pay tuition to any district with which it has a contract under this section for each of its students attending school in that district at a grade level for which the district has contracted. The amount of the tuition paid may not exceed the lesser of the amount provided for by Section 25.038 *or an amount specified by commissioner rule* [if the board of trustees of the district in which the students reside finds the excess payment to be in the best interest of the district's educational program].

SECTION 1.33. Subsection (b), Section 30.102, Education Code, is amended to read as follows:

(b) A classroom teacher, ~~or~~ full-time librarian, *full-time counselor certified under Subchapter B, Chapter 21, or full-time school nurse* employed by the commission is entitled to receive as a minimum salary the monthly salary ~~rate~~ specified by Section 21.402. A classroom teacher, ~~or~~ full-time librarian, *full-time counselor, or full-time school nurse* may be paid, from funds appropriated to the commission, a salary in excess of the minimum specified by that section, but the salary may not exceed the rate of pay for a similar position in the public schools of an adjacent school district.

SECTION 1.34. Subsections (a) and (c), Section 45.104, Education Code, are amended to read as follows:

(a) The board of trustees of any school district may pledge its delinquent taxes levied for maintenance purposes for specific *past, current, and future* school years as security for a loan, *and may evidence any such loan with negotiable notes*, and the delinquent taxes pledged shall be applied against the principal and interest of the loan ~~as they are collected~~. *Negotiable notes issued under this subsection must mature not more than 20 years from their date.*

(c) Funds secured through loans secured by delinquent taxes may be employed for any legal maintenance expenditure or purpose of the school district, *including all costs incurred in connection with:*

(1) *environmental cleanup and asbestos removal programs implemented by school districts; or*

(2) *maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties.*

SECTION 1.35. Subsection (a), Section 45.108, Education Code, is amended to read as follows:

(a) Independent or consolidated school districts may borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable notes, except that the loans may not at any time exceed 75 percent of the previous year's income. The notes may be payable from *and secured by a lien on and pledge of* any available funds of the district, *including proceeds of a maintenance tax*. The term "maintenance expenses" or "maintenance expenditures" as used in this section means any lawful expenditure of the school district other than payment of principal of and interest on bonds. The term includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by school districts *or in connection with the maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties*. Notes issued pursuant to *this section* ~~(an environmental cleanup and asbestos cleanup and removal program)~~ may be issued to mature in not more than 20 ~~15~~ years from their date. Notes issued for a term longer than one year must be treated as "debt" as defined in Section 26.012(7), Tax Code.

SECTION 1.36. Section 403.302, Government Code, as amended by S.B. No. 1368, Acts of the 76th Legislature, Regular Session, 1999, is amended by amending Subsections (d) and (h) and adding Subsection (j) to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) *one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;*

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) ~~(3)~~ the total dollar amount of any captured appraised value of property that is located in a reinvestment zone on August 31, 1999, generates a tax increment paid into a

tax increment fund, and is eligible for tax increment financing under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999;

(5) [(4)] the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(6) [(5)] the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(7) [(5)] the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(8) [(7)] a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted;

(9) [(8)] the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(10) [(9)] the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(11) [(10)] the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(12) [(11)] the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(h) For purposes of *Section [Sections 41.0011 and] 42.2511, Education Code, [for the 1996 and 1997 tax years,]* the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; and

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997.

(j) *For purposes of Section 42.2522, Education Code, the comptroller shall certify to the commissioner of education:*

*(1) a final value for each school district computed without any deduction for residence homestead exemptions granted under Section 11.13(n), Tax Code; and*

*(2) a final value for each school district computed after deducting one-half the total dollar amount of residence homestead exemptions granted under Section 11.13(n), Tax Code.*

SECTION 1.37. Subdivision (8), Section 271.003, Local Government Code, is amended to read as follows:

(8) "Personal property" includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by the governing body of the governmental agency to be necessary, useful, or appropriate to one or more purposes of the governmental agency. *The term includes all materials and labor incident to the installation of that personal property.* The term does not include real property.



SECTION 1.38. Section 271.005, Local Government Code, is amended by adding Subsection (b) to read as follows:

*(b) The governing body of a governmental agency may contract under this section for materials and labor incident to the installation of personal property.*

SECTION 1.39. Subsection (b), Section 271.007, Local Government Code, is amended to read as follows:

*(b) After the contract has been approved and registered as provided by this section, the contract is valid and is incontestable for any cause. The legal obligation of the lessor, vendor, or supplier of personal property or of the person installing personal property to the governmental agency is not diminished in any respect by the approval and registration of the contract.*

SECTION 1.40. Section 26.08, Tax Code, is amended by amending Subsection (i) and adding Subsections (j) through (n) to read as follows:

*(i) For purposes of this section, the rollback tax rate of a school district is the sum of:*

*(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been [was] available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year;*

*(2) the rate of \$0.06 [\$0.08] per \$100 of taxable value; and*

*(3) the district's current debt rate.*

*(j) For purposes of Subsection (i), the amount of state funds that would have been available to a school district in the preceding year is computed using the maximum tax rate for the current year under Section 42.253(e), Education Code.*

*(k) Except as provided by Subsection (l), for purposes of this section, for the 1999 tax year, the rollback tax rate of a school district is the sum of:*

*(1) the tax rate that, applied to the current total value for the district, would impose maintenance and operations taxes in an amount that, when added to the amount of state funds that would be distributed to the district under Chapter 42, Education Code, for the 1999-2000 school year using that tax rate and a guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code, of \$23.10, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for the 1999-2000 school year that would have been available to the district in the 1999-2000 school year, using:*

*(A) the maximum tax rate for the 1999-2000 school year under Section 42.253(e), Education Code, for which state funding would be provided; and*

*(B) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code, for the 1998-1999 school year and the basic allotment under Section 42.101, Education Code, for the 1999-2000 school year;*

*(2) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that would provide the same amount of funds as the taxes paid by the district during the 1998-1999 school year under 26 U.S.C. Section 3111(a), and its subsequent amendments, for employees covered by the Social Security retirement program, if the district is currently required to participate in that program;*

*(3) the rate of \$0.03 per \$100 of taxable value; and*

*(4) the district's current debt rate.*

*(l) Subsection (i) applies to a school district that is required to take action under Chapter 41, Education Code, to reduce its wealth per student to the equalized wealth level, except that the amount of \$0.03 is substituted for the amount specified by Subsection (i)(2).*

*(m) For purposes of Subsections (i) and (k), the amount of maintenance and operations taxes and state funds available to a school district does not include amounts provided to the district in accordance with Section 42.2512 or 42.2513, Education Code.*

*(n) Subsections (k)–(m) and this subsection expire September 1, 2000.*

SECTION 1.41. In placing a counselor or school nurse on the minimum salary schedule in accordance with Sections 21.402 and 21.403, Education Code, as amended by this Act, a school district shall credit the counselor or nurse for each year of experience in accordance with rules adopted by the commissioner of education, regardless of whether the experience was gained before, during, or after the 1999–2000 school year.

SECTION 1.42. (a) In coordination with the comptroller of public accounts of the State of Texas, the Charles A. Dana Center at The University of Texas at Austin shall conduct a study of variations in known resource costs and costs of education beyond the control of a school district.

(b) Not later than November 1, 2000, the center shall make recommendations to the 77th Legislature as to methods of adjusting funding under Chapter 42, Education Code, to reflect variations in resource costs and costs of education.

(c) The comptroller of public accounts of the State of Texas, the Texas Education Agency, and Texas A&M University shall assist the center in conducting the study and making the recommendations.

SECTION 1.43. (a) A portion of the amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency is allocated as provided by this subsection, notwithstanding the provisions of H.B. No. 1:

(1) for the fiscal year ending August 31, 2000, \$1,715,000,000 is allocated to Strategy A.2.1.: Foundation School Program, and for the fiscal year ending August 31, 2001, \$1,785,000,000 is allocated to that strategy;

(2) for each fiscal year of the biennium ending August 31, 2001, \$100 million is allocated to Strategy B.1.1.: Instructional Excellence, for kindergarten and prekindergarten grant programs authorized by Section 29.155, Education Code, as added by this Act;

(3) for each fiscal year of the biennium ending August 31, 2001, \$7.5 million is allocated to Strategy B.1.1.: Instructional Excellence, for implementation of an educational component to Head Start, as authorized by Section 29.156, Education Code, as added by this Act;

(4) for each fiscal year of the biennium ending August 31, 2001, \$42.5 million in each year of the biennium is allocated to Strategy B.1.1.: Instructional Excellence, for the Basic Skills Programs for High School Students, as authorized by Section 29.086, Education Code, as added by this Act; and

(5) for the fiscal year ending August 31, 2001, the unexpended balance of an amount allocated under Subdivision (2), (3), or (4) of this subsection for the fiscal year ending August 31, 2000, is allocated for the same purpose.

(b) As provided by Section 42.2511, Education Code, as amended by this Act, the commissioner of education shall allocate transition aid for total revenue declines associated with the increase in the homestead exemption under Subsection (d), Section 1-b, Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, in amounts estimated to be \$45 million for each fiscal year of the biennium ending August 31, 2001.

(c) For the biennium ending August 31, 2001, the commissioner of education shall distribute amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency, in Article III of that Act, for purposes of the Instructional Facilities Allotment under Subchapter A, Chapter 46, Education Code, as amended by this Act, as follows:

(1) for the fiscal year ending August 31, 2000, the commissioner shall use \$50 million of the funds appropriated in Strategy A.2.3.: Maximizing School Facilities, to assist school districts under the provisions of Subchapter A, Chapter 46, Education Code, as amended by this Act, to issue new debt for public school facilities, and for the fiscal year ending August 31, 2001, the commissioner shall use \$50 million to assist school districts to issue new debt

for public school facilities and \$50 million to assist school districts to make debt service payments on debt issued in the fiscal year ending August 31, 2000; and

(2) the commissioner shall use the remaining appropriation in Strategy A.2.3.: Maximizing School Facilities, to meet the financial obligation incurred by the state under Subchapter A, Chapter 46, Education Code, as amended by this Act, in the biennium ending August 31, 1999.

(d) The amount allocated under Rider 10 following the appropriation to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, is reduced from \$160 million to \$133 million, and that amount shall be distributed by the commissioner of education in a manner consistent with the changes made by this Act in amending Subsection (b), Section 41.002, Education Code, repealing Subsection (c), Section 41.002, Education Code, and adding Section 42.2521, Education Code, relating to the compensation of school districts for property value decline.

(e) The amount specified in Rider 50 following the appropriation to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, as the guaranteed level per weighted student per cent of tax effort is adjusted to conform with Subchapter F, Chapter 42, Education Code, as amended by this Act.

(f) For each fiscal year of the biennium ending August 31, 2001, from amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency, the commissioner of education may expend an amount not to exceed \$25 million in payment of the allotment provided by Section 42.158, Education Code, as added by this Act, for new instructional facilities.

(g) The Legislative Budget Board shall adjust the amounts specified in Rider 2 following the appropriation to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, in compliance with the changes specified by this section.

(h) The Legislative Budget Board shall adjust the amount specified as attendance credit revenues in the method of finance for amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency to account for applicable provisions of this Act and for updated projections of those revenues.

(i) The Legislative Budget Board shall adjust performance measure targets in the appropriations in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency to reflect the provisions of this Act.

(j) Strategy A.2.2.: Public Education, as provided in the appropriations in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency, is repealed.

SECTION 1.44. In addition to other amounts appropriated for the fiscal biennium ending August 31, 2001, the sum of \$50 million is appropriated, for the fiscal year ending August 31, 2000, from the general revenue fund to the Texas Education Agency for purposes of the foundation school program, and the unexpended balance of that appropriation is appropriated, for the fiscal year ending August 31, 2001, from the general revenue fund to the Texas Education Agency for the same purposes.

## ARTICLE 2. PROGRAM IMPROVEMENTS, DISCIPLINE, AND SOCIAL PROMOTION

SECTION 2.01. Subchapter E, Chapter 29, Education Code, is amended by adding Sections 29.155 and 29.156 to read as follows:

*Sec. 29.155. KINDERGARTEN AND PREKINDERGARTEN GRANTS. (a) From amounts appropriated for the purposes of this section, the commissioner may make grants to school districts and open-enrollment charter schools to implement or expand kindergarten and prekindergarten programs by:*

*(1) operating an existing half-day kindergarten or prekindergarten program on a full-day basis; or*

*(2) implementing a prekindergarten program at a campus that does not have a prekindergarten program.*

(b) A school district or open-enrollment charter school may use funds received under this section to employ teachers and other personnel for a kindergarten or prekindergarten program and acquire curriculum materials or equipment, including computers, for use in kindergarten and prekindergarten programs.

(c) To be eligible for a grant under this section, a school district or open-enrollment charter school must apply to the commissioner in the manner and within the time prescribed by the commissioner.

(d) In awarding grants under this section, the commissioner shall give priority to districts and open-enrollment charter schools in which the level of performance of students on the assessment instruments administered under Section 39.023 to students in grade three is substantially below the average level of performance on those assessment instruments for all school districts in the state.

(e) The commissioner may adopt rules to administer this section.

(f) Notwithstanding Section 7.056(e)(3)(I), the commissioner may waive a requirement prescribed by this subchapter to the extent necessary to implement a grant awarded under this section or Section 29.156.

**Sec. 29.156. GRANTS FOR EDUCATIONAL COMPONENT OF HEAD START.** (a) From funds appropriated for the purpose, the commissioner shall make grants for use in providing an educational component to federal Head Start programs or similar government-funded early childhood care and education programs.

(b) The commissioner shall adopt rules for implementation of this section, including rules prescribing eligibility criteria for receipt of a grant and for expenditure of grant funds.

**SECTION 2.02.** Subchapter C, Chapter 29, Education Code, is amended by adding Section 29.086 to read as follows:

**Sec. 29.086. BASIC SKILLS PROGRAMS FOR HIGH SCHOOL STUDENTS.** (a) A school district may apply to the commissioner for funding of special programs for students in grade nine who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the commissioner. A school district may, with the consent of a student's parent or guardian, assign a student to a program under this section. A program under this section may not exceed 210 instructional days.

(b) A program under this section must emphasize basic skills in areas of the required curriculum under Section 28.002 and must offer students the opportunity to increase credits required for high school graduation under state or school district policy. A program under this section may be provided by a school district or an entity contracting with a school district to provide the program.

(c) The commissioner shall award funds to districts in accordance with a competitive grant process developed by the commissioner. A grant may be made to a consortium of school districts. The criteria by which the commissioner awards a grant must include the quality of the proposed program and the school district's demonstrated need for the program. An approved program must include criteria that permit measurement of student progress, and the district shall:

(1) annually evaluate the progress of students in the program; and

(2) submit the results of the evaluation to the commissioner at the end of the school year.

(d) The commissioner shall establish minimum levels of student enrollment and standards of student progress required for continued funding of a program under this section. The commissioner may eliminate funding for a program in a subsequent school year if the program fails to achieve sufficient levels of student progress.

(e) The amount of a grant under this section must take into account funds distributed to the school district under Chapter 42.

(f) The commissioner may adopt rules for the administration of programs under this section.

SECTION 2.03. Section 5.001, Education Code, is amended by adding Subdivision (8) to read as follows:

(8) *"Residential facility" means:*

(A) *a facility operated by a state agency or political subdivision, including a child placement agency, that provides 24-hour custody or care of a person 22 years of age or younger, if the person resides in the facility for detention, treatment, foster care, or any noneducational purpose; and*

(B) *any person or entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision to provide custody or care for a person under Paragraph (A).*

SECTION 2.04. Subsection (b), Section 12.104, Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) *reading instruments and accelerated reading instruction programs under Section 28.006;*

(D) *satisfactory performance on assessment instruments and to accelerated instruction under Section 28.0211;*

(E) high school graduation under Section 28.025;

(F) ~~[(D)]~~ special education programs under Subchapter A, Chapter 29;

(G) ~~[(E)]~~ bilingual education under Subchapter B, Chapter 29;

(H) ~~[(F)]~~ prekindergarten programs under Subchapter E, Chapter 29;

(I) ~~[(G)]~~ extracurricular activities under Section 33.081;

(J) ~~[(H)]~~ health and safety under Chapter 38; and

(K) ~~[(I)]~~ public school accountability under Subchapters B, C, D, and G, Chapter 39.

SECTION 2.05. Section 21.103, Education Code, is amended to read as follows:

Sec. 21.103. PROBATIONARY CONTRACT: TERMINATION. (a) The board of trustees of a school district may terminate the employment of a teacher employed under a probationary contract at the end of the contract period if in the board's judgment the best interests of the district will be served by terminating the employment. The board of trustees must give notice of its *decision* ~~[intention]~~ to terminate the employment to the teacher not later than the 45th day before the last day of instruction required under the contract. The board's decision is final and may not be appealed.

(b) If the board of trustees fails to give the notice of its *decision* ~~[intention]~~ to terminate the teacher's employment within the time prescribed by Subsection (a), the board must employ the probationary teacher in the same capacity under:

(1) a probationary contract for the following school year, if the teacher has been employed by the district under a probationary contract for less than three consecutive school years; or

(2) a continuing or term contract, according to district policy, if the teacher has been employed by the district under a probationary contract for three consecutive school years.

SECTION 2.06. Subsection (a), Section 21.451, Education Code, is amended to read as follows:

(a) The staff development provided by a school district must be conducted in accordance with minimum standards developed by the commissioner for program planning, preparation, and improvement. The staff development:

(1) must include *training in technology, [training and training in] conflict resolution, and discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section §7.001 and Chapter §7;* and

(2) may include instruction as to what is permissible under law, including opinions of the United States Supreme Court, in regard to prayers in public school.

SECTION 2.07. (a) Chapter 21, Education Code, is amended by adding Subchapter K to read as follows:

#### SUBCHAPTER K. TEXAS TROOPS TO TEACHERS PROGRAM

Sec. 21.501. *DEFINITION.* In this subchapter, "program" means the Texas Troops to Teachers Program.

Sec. 21.502. *ESTABLISHMENT OF PROGRAM.* The agency shall establish a program to:

(1) assist persons who have served in the armed forces of the United States and are separated from active duty to obtain certification as an elementary or secondary school teacher in this state; and

(2) facilitate the employment of those persons by school districts that have a shortage of teachers.

Sec. 21.503. *ELIGIBILITY.* A person is eligible for the program if the person:

(1) has served in the armed forces of the United States;

(2) is honorably discharged, retired, or released from active duty on or after October 1, 1990, after at least six years of continuous active duty service immediately before the discharge, retirement, or release;

(3) has received a baccalaureate or advanced degree from a public or private institution of higher education accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; and

(4) satisfies any other criteria for selection jointly prescribed by the agency and the State Board for Educator Certification.

Sec. 21.504. *INFORMATION AND APPLICATIONS.* (a) The agency shall develop an application for the program.

(b) The agency and the State Board for Educator Certification shall distribute the applications and information regarding the program.

Sec. 21.505. *SELECTION OF PARTICIPANTS.* (a) The agency shall select persons to participate in the program on the basis of applications submitted to the agency.

(b) Each application must be submitted:

(1) in the form and contain the information the agency requires; and

(2) in a timely manner.

(c) An application is considered to be submitted in a timely manner for purposes of Subsection (b)(2) if the application is submitted:

(1) not later than October 5, 1999, in the case of an applicant discharged, retired, or released from active duty before January 19, 1999; or

(2) except as provided by Subdivision (1), not later than the first anniversary of the date of the applicant's discharge, retirement, or release from active duty.

Sec. 21.506. *LIMITATION ON IMPLEMENTATION.* The agency may not select a person to participate in the program unless the agency has sufficient state appropriations to pay the stipend provided by Section 21.509 at the time of the selection.

Sec. 21.507. *PREFERENCES.* (a) In selecting persons to participate in the program, the agency shall give preference to a person who:

(1) has significant educational or military experience in science, mathematics, or engineering and agrees to seek employment as a teacher in one of those subjects in a public elementary or secondary school in this state; or

(2) has significant educational or military experience in a field other than science, mathematics, or engineering identified by the agency as a field important for state educational objectives and agrees to seek employment as a teacher in a subject related to that field in a public elementary or secondary school in this state.

(b) The commissioner shall determine the level of experience considered significant for purposes of this section.

Sec. 21.508. **AGREEMENT.** A person selected to participate in the program must enter into a written agreement with the agency under which the person agrees to:

(1) obtain, within the period the agency by rule requires, certification as an elementary or secondary school teacher in this state; and

(2) accept, during the first school year that begins after the date the person becomes certified, an offer of full-time employment as an elementary or secondary school teacher with a school district in this state.

Sec. 21.509. **STIPEND.** The agency shall pay to each participant in the program a stipend of \$5,000.

Sec. 21.510. **REIMBURSEMENT.** (a) A participant in the program who fails to obtain certification or employment as required in the agreement under Section 21.508 or who voluntarily leaves or is terminated for cause from the employment after teaching in a public elementary or secondary school in this state for less than five school years shall reimburse the agency for the portion of the stipend that bears the same ratio to the amount of the stipend as the unserved portion of required service bears to the five years of required service.

(b) The obligation to reimburse the agency under this section is, for all purposes, a debt to the state. A discharge in bankruptcy under Title 11, United States Code, does not release a participant from the obligation to reimburse the agency. The amount owed bears interest at the rate equal to the highest rate being paid by the United States on the day the reimbursement is determined to be due for securities that have maturities of 90 days or less, and the interest accrues from the day the participant receives notice of the amount due.

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.508 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at a public or private institution of higher education approved by the State Board for Educator Certification;

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

(d) A participant is excused from reimbursement under Subsection (a) if:

(1) the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician; or

(2) the agency waives reimbursement in the case of extreme hardship to the participant.

Sec. 21.511. The commissioner shall adopt rules to implement this subchapter.

(b) If the commissioner of education determines that federal funds are available for a federal program with the general purposes of Subchapter K, Chapter 21, Education Code, as added by Subsection (a) of this section, such as for a program under 10 U.S.C. Section 1151, the commissioner shall discontinue the Texas Troops to Teachers Program and shall file

notice of that discontinuation with the secretary of state to be published in the Texas Register.

(c) The commissioner of education may utilize discretionary funds or nonutilized balances to pay stipends for a program with the general purposes of Subchapter K, Chapter 21, Education Code, as added by Subsection (a) of this section, if federal funds, such as the funds provided for a program under 10 U.S.C. Section 1151, are not available or cease to be authorized.

SECTION 2.08. Subsection (b), Section 25.001, Education Code, is amended to read as follows:

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought if:

- (1) the person and either parent of the person reside in the school district;
- (2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;
- (3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;
- (4) the person has established a separate residence under Subsection (d);
- (5) the person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;
- (6) the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);

*(7) the person resides at a residential facility located in the district; or*

*(8) [(7)] the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed.*

SECTION 2.09. Subsection (a), Section 25.003, Education Code, is amended to read as follows:

*(a) Notwithstanding any other provision of this code, a school district shall charge tuition for a child who resides at a residential facility [child-care institution] and whose maintenance expenses are paid in whole or in part by another state or the United States [may not be admitted to a public school unless the child-care institution pays tuition for the child equal to the actual cost of educating a child enrolled in a similar educational program in the district].*

SECTION 2.10. Subsection (d), Section 25.085, Education Code, is amended to read as follows:

(d) Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:

- (1) an extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;
- (2) *an accelerated reading instruction program to which the student is assigned under Section 28.006(g);*
- (3) *an accelerated instruction program to which the student is assigned under Section 28.0211; or*
- (4) *a basic skills program to which the student is assigned under Section 29.086.*

SECTION 2.11. Section 28.006, Education Code, is amended by amending Subsection (d) and adding Subsections (g) through (m) to read as follows:

(d) The superintendent of each school district shall:



(1) report to the commissioner and the board of trustees of the district the results of the reading instruments; and

(2) report, in writing, to a student's parent or guardian the student's results on the reading instrument.

(g) A school district shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on a reading instrument under this section shall determine the manner in which the student will participate in an accelerated reading instruction program under this subsection.

(h) The school district shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English and in the parent or guardian's native language.

(i) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds.

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.051(b)(7) and may implement sanctions under Subchapter G, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(k) The provisions of this section relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the commissioner certifies that funds have been appropriated during a school year for administering the accelerated reading instruction program specified under this section.

(l) Each district shall provide the accelerated reading instruction under Subsection (g) to students in:

- (1) kindergarten during the 1999–2000 school year;
- (2) kindergarten and first grade during the 2000–2001 school year; and
- (3) kindergarten and first and second grades beginning with the 2001–2002 school year.

(m) Subsection (l) and this subsection expire January 1, 2002.

SECTION 2.12. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0211 to read as follows:

**Sec. 28.0211. SATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED; ACCELERATED INSTRUCTION.** (a) Except as provided by Subsection (b) or (e), a student may not be promoted to:

(1) the fourth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the third grade reading assessment instrument under Section 39.023;

(2) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(3) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(b) A school district shall provide to a student who initially fails to perform satisfactorily on an assessment instrument specified under Subsection (a) at least two additional opportunities to take the assessment instrument. A school district may administer an alternate assessment instrument to a student who has failed an assessment instrument specified under Subsection (a) on the previous two opportunities. Notwithstanding any other provision of this section, a student may be promoted if the student performs at grade level on an alternate assessment instrument under this subsection that is appropriate for the student's grade level and approved by the commissioner.

(c) Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. After a student fails to perform satisfactorily on an assessment instrument a second time, a grade placement committee shall be established to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time. The grade placement committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee. An accelerated instruction group administered by a school district under this section may not have a ratio of more than 10 students for each teacher.

(d) In addition to providing accelerated instruction to a student under Subsection (c), the district shall notify the student's parent or guardian of:

- (1) the student's failure to perform satisfactorily on the assessment instrument;
- (2) the accelerated instruction program to which the student is assigned; and
- (3) the possibility that the student might be retained at the same grade level for the next school year.

(e) A student who, after at least three attempts, fails to perform satisfactorily on an assessment instrument specified under Subsection (a) shall be retained at the same grade level for the next school year in accordance with Subsection (a). The student's parent or guardian may appeal the student's retention by submitting a request to the grade placement committee established under Subsection (c). The school district shall give the parent or guardian written notice of the opportunity to appeal. The grade placement committee may decide in favor of a student's promotion only if the committee concludes, using standards adopted by the board of trustees, that if promoted and given accelerated instruction, the student is likely to perform at grade level. A student may not be promoted on the basis of the grade placement committee's decision unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination. This subsection does not create a property interest in promotion. The decision of the grade placement committee is final and may not be appealed.

(f) A school district shall provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by an educational plan developed for the student by the student's grade placement committee established under Subsection (c). The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.

(g) This section does not preclude the retention at a grade level, in accordance with state law or school district policy, of a student who performs satisfactorily on an assessment instrument specified under Subsection (a).

(h) In each instance under this section in which a school district is specifically required to provide notice to a parent or guardian of a student, the district shall make a good faith effort to ensure that such notice is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English or the parent or guardian's native language.

(i) The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) shall determine:

(1) the manner in which the student will participate in an accelerated instruction program under this section; and

(2) whether the student will be promoted or retained under this section.

(j) A school district or open-enrollment charter school shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours.

(k) The commissioner shall adopt rules as necessary to implement this section, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.051.

(l) The commissioner shall issue a report to the legislature not later than December 1, 2000, that reviews the enrollment of students in accelerated instruction and the quality and availability of accelerated instruction programs, including accelerated instruction-related teacher professional development programs.

(m) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds. This section may be implemented only if the commissioner certifies that sufficient funds have been appropriated during a school year for administering the accelerated instruction programs specified under this section.

(n) This section applies to the assessment instrument administered to students in:

(1) the third grade beginning with the 2002–2003 school year;

(2) the fifth grade beginning with the 2004–2005 school year; and

(3) the eighth grade beginning with the 2007–2008 school year.

(o) Subsection (n) and this subsection expire January 1, 2008.

SECTION 2.13. Section 29.012, Education Code, is amended to read as follows:

Sec. 29.012. ~~RESIDENTIAL [INTERMEDIATE CARE]~~ FACILITIES. (a) Except as provided by Subsection (b)(2), not later than the third day after the date a person 22 years of age or younger is placed in a residential facility, the residential facility shall:

(1) if the person is three years of age or older, notify the school district in which the facility is located, unless the facility is an open-enrollment charter school; or

(2) if the person is younger than three years of age, notify a local early intervention program in the area in which the facility is located.

(b) An agency or political subdivision that funds, licenses, certifies, contracts with, or regulates a residential facility must:

(1) require the facility to comply with Subsection (a) as a condition of the funding, licensing, certification, or contracting; or

(2) if the agency or political subdivision places a person in a residential facility, provide the notice under Subsection (a) for that person.

(c) For purposes of enrollment in a school, a person who resides in a residential facility is considered a resident of the school district or geographical area served by the open-enrollment charter school in which the facility is located.

(d) The Texas Education Agency, ~~and~~ the Texas Department of Mental Health and Mental Retardation, ~~the Texas Department of Human Services, the Texas Department of Health, the Department of Protective and Regulatory Services, the Interagency Council on Early Childhood Intervention, the Texas Commission on Alcohol and Drug Abuse, the Texas Juvenile Probation Commission, and the Texas Youth Commission~~ by a cooperative effort shall develop and by rule adopt a memorandum of understanding. *The memorandum must:*

- (1) ~~establish [that establishes]~~ the respective responsibilities of school districts and of residential ~~[intermediate care]~~ facilities for ~~[mentally retarded persons for]~~ the provision of a free, appropriate public education, as required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and its subsequent amendments, including each requirement of 20 U.S.C. Section 1412(a)(12), ~~[classrooms and educationally related therapy]~~ for children with disabilities ~~[students]~~ who reside in those facilities;
- (2) coordinate regulatory and planning functions of the parties to the memorandum;
- (3) establish criteria for determining when a public school can provide educational services and when a residential facility must provide the services;
- (4) provide for appropriate educational space when a residential facility must provide educational services;
- (5) establish measures designed to ensure the safety of students and teachers; and
- (6) provide for binding arbitration consistent with Chapter 2009, Government Code, and Section 154.027, Civil Practice and Remedies Code.

~~[(b) The division of responsibilities under the memorandum of understanding must be consistent with federal law relating to the state medical assistance program.]~~

SECTION 2.14. (a) Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.086 to read as follows:

**Sec. 33.086. CERTIFICATION IN CARDIOPULMONARY RESUSCITATION AND FIRST AID.** (a) A school district employee who serves as the head coach or chief sponsor for an extracurricular athletic activity, including cheerleading, sponsored or sanctioned by a school district or the University Interscholastic League must maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification.

(b) Each school district shall adopt procedures necessary for administering this section, including procedures for the time and manner in which proof of current certification must be submitted.

(b) Section 33.086, Education Code, as added by Subsection (a) of this section, applies beginning January 1, 2000.

SECTION 2.15. Section 37.006, Education Code, is amended by amending Subsection (f) and adding Subsection (l) to read as follows:

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in an alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. *An elementary school student may not be placed in an alternative education program with any other student who is not an elementary school student.*

(l) *Notwithstanding any other provision of this code, a student who is younger than six years of age may not be removed from class and placed in an alternative education program.*

SECTION 2.16. Subsection (m), Section 37.008, Education Code, is amended to read as follows:

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c) ~~[administer the provisions of Chapter 39 for alternative education programs]~~. Academically, the mission of alternative education programs shall be to enable students to perform at grade level. ~~[Annually, the commissioner shall define for alternative~~

~~education programs acceptable performance and performance indicating a need for peer review, based principally on standards defined by the commissioner that measure academic progress of students toward grade level while attending an alternative education program.]~~

SECTION 2.17. Subsection (h), Section 37.011, Education Code, is amended to read as follows:

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapter 39, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Probation Commission, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The Texas Juvenile Probation Commission shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. *Except as determined by the commissioner, a [A] student served by a juvenile justice alternative education program on the basis of an expulsion under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31 if the juvenile justice alternative education program receives funding from the Texas Juvenile Probation Commission under this subchapter.*

SECTION 2.18. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0231 to read as follows:

*Sec. 39.0231. REPORTING OF RESULTS OF CERTAIN ASSESSMENTS. The agency shall ensure that each assessment instrument administered in accordance with Section 28.0211 is scored and that the results are returned to the appropriate school district not later than 10 days after receipt of the test materials by the agency or its test contractor.*

SECTION 2.19. Subsection (b), Section 39.024, Education Code, is amended to read as follows:

(b) Each school district shall offer an intensive program of instruction for students who did not perform satisfactorily on an assessment instrument administered under this subchapter. The intensive programs for students who did not perform satisfactorily on an assessment instrument under Section 39.023(a) or (c) shall be designed to enable the students to be performing at grade level at the conclusion of the next regular school term *and, if applicable, to carry out the purposes of Section 28.0211.* The intensive programs for students who did not perform satisfactorily on an assessment instrument under Section 39.023(b) shall be designed by each student's admission, review, and dismissal committee to enable the student to attain a standard of annual growth on the basis of the student's individualized education program *and, if applicable, to carry out the purposes of Section 28.0211.*

SECTION 2.20. Subsections (b) and (d), Section 39.051, Education Code, are amended to read as follows:

(b) Performance on the indicators adopted under this section shall be compared to state-established standards. The degree of change from one school year to the next in performance on each indicator adopted under this section shall also be considered. The indicators must be based on information that is disaggregated with respect to race, ethnicity, sex, and socioeconomic status and must include:

- (1) the results of assessment instruments required under Sections 39.023(a) and (c), aggregated by grade level and subject area;
- (2) dropout rates;
- (3) student attendance rates;
- (4) the percentage of graduating students who attain scores on the secondary exit-level assessment instruments required under Subchapter B that are equivalent to a passing score on the test instrument required under Section 51.306;
- (5) the percentage of graduating students who meet the course requirements established for the recommended high school program by State Board of Education rule;

(6) the results of the Scholastic Assessment Test (SAT) and the American College Test;

(7) *the number of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessments administered under that section, the number of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;*

(8) the percentage of students taking end-of-course assessment instruments adopted under Section 39.023(d);

(9) ~~[(8)]~~ the percentage of students exempted, by exemption category, from the assessment program generally applicable under this subchapter; and

(10) ~~[(9)]~~ any other indicator the State Board of Education adopts.

(d) Annually, the commissioner shall define exemplary, recognized, and unacceptable performance for each academic excellence indicator included under Subsections (b)(1) through (6) and shall project the standards for each of those levels of performance for succeeding years. *For the indicator under Subsection (b)(7), the commissioner shall define exemplary, recognized, and unacceptable performance based on student performance for the period covering both the current and preceding academic years.*

SECTION 2.21. Subsection (b), Section 39.052, Education Code, is amended to read as follows:

(b) The report card shall include the following information where applicable:

(1) the academic excellence indicators adopted under Sections 39.051(b)(1) through (9) ~~[(8)]~~;

(2) student/teacher ratios; and

(3) administrative and instructional costs per student.

SECTION 2.22. Subsections (b) and (c), Section 39.072, Education Code, are amended to read as follows:

(b) The academic excellence indicators adopted under Sections 39.051(b)(1) through (7) ~~[(8)]~~ shall be the main consideration of the agency in the rating of the district under this section. Additional criteria in the rules may include consideration of:

(1) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under specific statutory authority that relate to:

(A) reporting data through the Public Education Information Management System (PEIMS);

(B) the high school graduation requirements under Section 28.025; or

(C) an item listed in Sections 7.056(e)(3)(C)–(I) that applies to the district; and

(2) the effectiveness of the district's programs in special education based on the agency's most recent compliance review of the district and programs for special populations.

(c) The agency shall evaluate against state standards and shall report the performance of each campus in a district and each open-enrollment charter school on the basis of the campus's performance on the indicators adopted under Sections 39.051(b)(1) through (7) ~~[(8)]~~.

SECTION 2.23. Subsection (a), Section 39.073, Education Code, is amended to read as follows:

(a) The agency shall annually review the performance of each district and campus on the indicators adopted under Sections 39.051(b)(1) through (7) ~~[(8)]~~ and determine if a change in the accreditation status of the district is warranted.

SECTION 2.24. Subsection (e), Section 39.074, Education Code, is amended to read as follows:

(e) If an annual review indicates low performance on one or more of the indicators under Sections 39.051(b)(1) through (7) ~~[(8)]~~ of one or more campuses in a district, the agency may conduct an on-site evaluation of those campuses only.

SECTION 2.25. Subsection (c), Section 39.075, Education Code, is amended to read as follows:

(c) Based on the results of a special accreditation investigation, the commissioner may:

- (1) *take appropriate action under Subchapter G;*
- (2) *lower the district's accreditation rating; or*
- (3) *take action under both Subdivisions (1) and (2) [and may take appropriate action under Subchapter G].*

SECTION 2.26. Section 39.183, Education Code, is amended to read as follows:

Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a regional and district level report covering the preceding two school years and containing:

- (1) a summary of school district compliance with the student/teacher ratios and class-size limitations prescribed by Sections 25.111 and 25.112, including the number of districts granted an exception from Section 25.112;
- (2) a summary of the exemptions and waivers granted to school districts under Section 7.056 or 39.112 and a review of the effectiveness of each campus or district following deregulation; [and]
- (3) an evaluation of the performance of the system of regional education service centers based on the indicators adopted under Section 8.101 and client satisfaction with services provided under Subchapter B, Chapter 8; and
- (4) *an evaluation of accelerated instruction programs offered under Section 28.006, including an assessment of the quality of such programs and the performance of students enrolled in such programs.*

### ARTICLE 3. REPEALER; EFFECTIVE DATE; EMERGENCY

SECTION 3.01. (a) Subsection (b), Section 8.121; Subsection (c), Section 41.002, Subsection (c), Section 42.251, and Subsection (e), Section 42.252, Education Code, are repealed.

(b) Effective August 31, 1999, Subsection (i), Section 403.302, Government Code, is repealed.

(c) Subsection (f), Section 26.08, Tax Code, is repealed.

SECTION 3.02. Except as otherwise provided by this Act, this Act takes effect September 1, 1999.

SECTION 3.03. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 28, 1999, by a viva-voce vote; May 24, 1999, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 1999, House granted request of the Senate; May 30, 1999, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0; passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas; passed the House, with amendments, on May 24, 1999, by a non-record vote; May 26, 1999, House granted request of the Senate for appointment of Conference Committee; May 30, 1999, House adopted Conference Committee Report by a non-record vote; passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas.

Approved June 8, 1999.

Effective September 1, 1999, except as provided in § 3.01(b).